

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

TROY M. HURD,

Plaintiff,

v.

THE CITY OF LINCOLN, a political
subdivision, TOM CASADY, in their
individual and official capacities,
JOHN HUFF, in their individual and
official capacities, PAT BORER, in
their individual and official
capacities, ROGER BONIN, in their
individual and official capacities,
JEANNE PASHALEK, in their
individual and official capacities, and
LEO BENES, in their individual and
official capacities,

Defendants.

4:16CV3029

ORDER

After careful consideration of the parties' briefs, evidence, and oral arguments regarding Defendant City of Lincoln's Motion to Exclude Plaintiff's Proposed Expert Testimony/Opinions by Amy Oppenheimer (Filing No. 141),

IT IS ORDERED:

1. The Motion to Exclude Plaintiff's Proposed Expert Testimony/Opinions by Amy Oppenheimer (Filing No. 141) is denied. However, the expert may not express an opinion directly or indirectly that the City retaliated against the Plaintiff because it failed to follow the alleged "standard of care." Plaintiff's counsel shall so instruct the expert.

2. Furthermore, I will give a limiting instruction similar to the following if requested by the City:

Members of the Jury,

You are about to hear testimony by a person designated by the Plaintiff as an expert. It is for you to decide whether such a person is an expert and, if so, how much weight, if at all, to give to the testimony of the witness. The expert is not permitted to render an opinion that the City retaliated against the Plaintiff. In fact, the expert has no expertise in determining such a question, as that is for you alone to decide. Furthermore, even if you find that the City did not follow generally accepted human-resource policies, sometimes called the “standard of care,” that does not necessarily mean that the City retaliated against Plaintiff.

DATED this 16th day of October, 2018.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge